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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,436	03/21/2002	Zoltan Greff	22096	6522

535 7590 09/09/2005

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EXAMINER

COLEMAN, BRENDA LIBBY

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

ML

Office Action Summary

Application No.

10/030,436

Applicant(s)

GREFF ET AL.

Examiner

Brenda L. Coleman

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-35, 38, 40, 41 and 49-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28-35, 38, 40, 41, 49, 50 and 55-62 is/are allowed.
- 6) ☒ Claim(s) 51-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 28-35, 38, 40, 41, 49-62 are pending in the application.

This action is in response to applicant's amendments dated June 14, 2005.

Claims 53 and 54 have been amended, claims 36, 37, 39 and 42-48 have been canceled and claims 55-62 are newly added.

Response to Arguments

Applicant's arguments filed June 14, 2005 have been fully considered with the following elect:

1. With regards to the 35 U.S.C. § 112, first paragraph rejection of claims 47, 48 and 51-54 maintained in the last office action, applicants' state that pharmaceutical composition claims 47, 51 and 53 and method of treatment claims 48, 52 and 54 are adequately supported by the disclosure. The applicants filing of a Declaration under 37 C.F.R. 1.132 of Laszlo G. Harsing on June 23, 2005 is herein acknowledged. The applicants state that this Declaration establishes that the new compounds of Formula (I) are effective in the treatment of Parkinson's disease and in the treatment of multiple sclerosis. While the compounds of the instant invention may be used to treat Parkinson's disease and multiple sclerosis this does not provide for the **prevention** of stroke, Parkinson's disease, multiple sclerosis or amyotrophic lateral sclerosis or furthermore for the general treatment of any and all neurodegenerative diseases which responds to non-competitive antagonism or an AMPA/cainate receptor.

Claims 51-54 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable

one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, for reasons of record and stated above.

2. With regards to the 35 U.S.C. § 112, second paragraph rejections labeled h) maintained in the last office action, the applicant's amendments and remarks have been fully considered but they are not persuasive.

h) The applicants' failed to comment on the rejection of claims 47, 51 and 53 as being substantial duplicates of claim 49. It is acknowledged that claim 47 has been canceled, however, claims 51 and 53 are still substantial duplicates of claim 49 as the only difference is a statement of intended use, which is not given material weight. Note *In re Tuominen* 213 USPQ 89. A composition claim is a compound of Formula (I) and a pharmaceutically acceptable inert carrier of which there is no difference in the compositions other than the statement of intended use.

Claims 51 and 53 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for reasons of record and stated above.

3. The applicant's amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, second paragraph rejections of claims 36, 37, 39 and 42-46, labeled paragraph 5) of the last office action, which are hereby **withdrawn**.

Allowable Subject Matter

4. Claims 28-35, 38, 40, 41, 49, 50 and 55-62 allowed. None of the prior art of record or a search in the pertinent art area teaches the compounds, compositions, process of preparing and method of use of the compounds of formula (I) as claimed herein.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda L. Coleman whose telephone number is 571-272-0665. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brenda L. Coleman
Primary Examiner Art Unit 1624
September 2, 2005